

FILED

2011 JUN -7 PM 1:27

**CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE**

BY _____

1 WRIGHT, FINLAY & ZAK, LLP
2 T. Robert Finlay, Esq. (SBN 167280)
3 Lukasz I. Wozniak, Esq. (SBN 246329)
4 4665 MacArthur Court, Suite 280
5 Newport Beach, CA 92660
6 Tel: (949) 477-5050; Fax: (949) 477-9200
7 Email: lwozniak@wrightlegal.net

8 Attorneys for Defendant,
9 AURORA LOAN SERVICES, LLC, erroneously sued as AURORA LOAN
10 SERVICES

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

ED CV 11 - 00891 VAR (OPx)

13 SHIELA RIOS,

) Case No.:

14 Plaintiff,

)

) Assigned to:

15 vs.

)

) **NOTICE OF REMOVAL OF**

) **ACTION PURSUANT TO 28 U.S.C.**

17 QUALITY LOAN CORP, AURORA
18 LOAN SERVICES, and DOES 1-100,
19 Defendants.

) **§1441(b)--(Federal Question
Jurisdiction)**

)

)

)

) Complaint filed: May 11, 2011

)

23 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT**
24 **FOR THE CENTRAL DISTRICT OF CALIFORNIA:**

25 **PLEASE TAKE NOTICE** that defendant AURORA LOAN SERVICES,
26 LLC ("Defendant") hereby removes to this Court, the state court action described
27 below:
28

1 102.) Accordingly, Plaintiff's right to relief under this federal claim depends on
2 resolution of a substantial question of federal law and Defendant may remove this
3 case to this Court.

4 7. Plaintiffs' remaining claims assert State law claims. These state law
5 claims are transactionally related to, and arise out of the same common nucleus of
6 operative fact as, the federal claims and thus would be part of the same case or
7 controversy and subject to supplemental jurisdiction under 28 U.S.C. section
8 1367(a).

9 Respectfully submitted,
10 WRIGHT, FINLAY & ZAK, LLP

11
12
13 Dated: June 6, 2011

By: 

14 T. Robert Finlay, Esq.,
15 Lukasz I. Wozniak, Esq.,
16 Attorneys for Defendant, AURORA LOAN
17 SERVICES, LLC
18
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EXHIBIT “A”

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Civil Case Report



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Case RIC1108282 - RIOS VS QUALITY LOAN SERVICE CORP

Case RIC1108282 - Complaints/Parties

Complaint Number: 0001 — CMP Complaint of SHELIA RIOS

Original Filing Date: 05/11/2011

Complaint Status: ACTIVE

Party Number	Party Type	Party Name	Attorney	Party Status
1	Plaintiff	SHELIA RIOS	LAW OFFICE OF KHACHIK AKHKASHIAN	First Paper Fee Paid
2	Defendant	QUALITY LOAN SERVICE CORP	Unrepresented	Serve Required (WaitS)
3	Defendant	AURORA LOAN SERVICES	Unrepresented	Serve Required (WaitS)

Case RIC1108282 - Actions/Minutes

Viewed	Date	Action Text	Disposition	Image
	11/15/2011 8:30 AM DEPT. 10	CASE MANAGEMENT CONFERENCE HEARING		
	08/09/2011 8:00 AM DEPT. CLERK	NON-PROOF OF SERVICE (NON-APPEARANCE) HEARING		
	06/10/2011 8:30 AM DEPT. 12	HEARING RE OSC WHY PRELIMINARY INJUNCTION SHD NOT ISSUE		
N	05/12/2011	DECLARATION OF LILIA EBRAHIMIAN FOR NOTICE OF EX PARTE APPLICATION FOR TRO	Not Applicable	
	05/12/2011 9:30 AM DEPT. 12	EX PARTE HEARING RE TEMPORARY RESTRAINING ORDER/ORDER TO SHOW CAUSE.	Hearing Held	

Minutes

[Print Minute Order](#)

HONORABLE JOHN W VINEYARD, PRESIDING

CLERK: M. PEREZ

COURT REPORTER: C. AKI

SHELIA RIOS REPRESENTED BY LAW OFFICE OF KHACHIK AKHKASHIAN - KHACHIK AKHKASHI PRESENT.

NO STIPULATION REQUIRED PURSUANT TO CCP 259.

COURT HAS READ AND CONSIDERED DECLARATION OF LILIA EBRAHIMIAN.

DECLARATION IS ORDERED FILED.



REQUEST FOR TEMPORARY RESTRAINING ORDER IS TAKEN OFF CALENDAR.

HEARING RE OSC WHY PRELIMINARY INJUNCTION SHD NOT ISSUE SET 06/10/11 AT 08:30 DEPT 12

OPPOSITION AND REPLY TO BE FILED AND SERVED PURSUANT TO STATUTE.

FORMAL ORDER TO BE PREPARED, SERVED AND SUBMITTED BY MOVING PARTY.

NOTICE TO BE GIVEN BY MOVING PARTY


	05/11/2011	ON COMPLAINT FILED 05/11/2011 OF SHELIA RIOS AS TO SHELIA RIOS ATTORNEY LAW OFFICE OF KHACHIK AKHKASHIAN ADDED.	Not Applicable	
	05/11/2011	EX PARTE HEARING SET ON 5/12/11 AT 9:30 IN DEPT 12		
N	05/11/2011	SUMMONS ON COMPLAINT FILED 05/11/2011 OF SHELIA RIOS FILED	Not Applicable	
N	05/11/2011	EX PARTE APPLICATION TO/FOR TEMPORARY RESTRAINING ORDER/SHOW CAUSE FOR INJUNCT BY SHELIA RIOS FILED	Not Applicable	

Minutes

[Print Minute Order](#)

Receipt: 110511-0126

\$40.00

	05/11/2011	NON PROOF OF SERVICE HEARING SET FOR 8/09/11 AT 8:00 IN DEPT CLERK		
	05/11/2011	DIRECTLY ASSIGNED TO DEPARTMENT 10 FOR CASE MANAGEMENT PURPOSES.		
	05/11/2011	CASE IS ASSIGNED TO DEPARTMENT 12 FOR LAW AND MOTION PURPOSES.	Not Applicable	
N	05/11/2011	COMPLAINT FILED FAST TRACK - SUMMONS ISSUED.	Not Applicable	

Minutes

[Print Minute Order](#)

Receipt: 110511-0116

\$410.00

Case RIC1108282 - Pending Hearings

Date	Action Text	Disposition	Image
06/10/2011 8:30 AM DEPT. 12	HEARING RE OSC WHY PRELIMINARY INJUNCTION SHD NOT ISSUE		
08/09/2011 8:00 AM DEPT. CLERK	NON-PROOF OF SERVICE (NON-APPEARANCE) HEARING		
11/15/2011 8:30 AM DEPT. 10	CASE MANAGEMENT CONFERENCE HEARING		

• RIC1108282 Case Report - Riverside Civil & Small Claims

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PROOF OF SERVICE

I, Tina Bloom, declare as follows:

I am employed in the County of Orange, State of California. I am over the age of eighteen (18) and not a party to the within action. My business address is 4665 MacArthur Court, Suite 280, Newport Beach, California 92660. I am readily familiar with the practices of Wright, Finlay & Zak, LLP, for collection and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited with the United States Postal Service the same day in the ordinary course of business.

On June 7, 2011, I served the **Notice of Removal of Action** on all interested parties in this action as follows:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelope(s) addressed as follows:

Khachik Akhkashian
Law offices of Khachik Akhkashian
2418 Honolulu Avenue, Suite G
Montrose, California 91020

☐ (BY MAIL SERVICE) I placed such envelope(s) for collection to be mailed on this date following ordinary business practices.

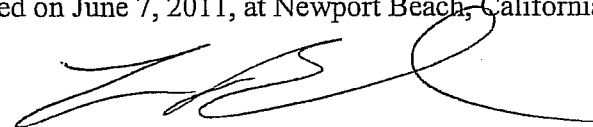
☐ (BY PERSONAL SERVICE) I caused to be delivered such envelope by hand delivered to the office of the addressee.

☐ (BY FACSIMILE) The facsimile machine I used, with telephone no. (949) 477-9200, complied with California Rules of Court, Rule 2003, and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2006(d), I caused the machine to print a transmission record of the transmission, a copy of which is attached to the original Proof of Service.

☐ (BY OVERNITE EXPRESS - NEXT DAY DELIVERY) I placed true and correct copies of thereof enclosed in a package designated by Federal Express with the delivery fees provided for.

☒ (FEDERAL) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 7, 2011, at Newport Beach, California.



Tina Bloom

EXHIBIT “B”

05/11/2011 15:30 2133842296

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SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: Quality Loan Service Corp,
(AVISO AL DEMANDADO): Aurora Loan Service, and
Does 1-100

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

MAY 11 2011

YOU ARE BEING SUED BY PLAINTIFF: Sheila Rios
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Historic Courthouse
4050 Main Street
4050 Main Street
Riverside, California 92501

CASE NUMBER:
(Número del Caso):

RIC

1108282

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Khachik Akhkashian
Law Offices of Khachik Akhkashian
2418 Honolulu Avenue
Montrose, California 91020
DATE: May 11, 2011
(Fecha)

(818) 249-2297

J. ALVAREZ

Clerk, by _____, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

[SEAL]

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CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, number, and address): Khachik Akhkashian Law Offices of Khachik Akhkashian 2418 Honolulu Avenue Suite #G Montrose, California 91020 TELEPHONE NO.: (818) 249-2220 FAX NO.: (818) 249-2297		FOR COURT USE ONLY CASE NUMBER: 1108282 JUDGE: DEPT:
ATTORNEY FOR (Name): <u>Sheila Rios</u> SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside STREET ADDRESS: 4050 Main Street MAILING ADDRESS: 4050 Main Street CITY AND ZIP CODE: Riverside, California 92501 BRANCH NAME: Riverside Historic Courthouse		
CASE NAME: Rios v. Quality Loan Service Corp et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other P/DP/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other P/DP/WD (23) Non-P/DP/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/DP/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (05) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input checked="" type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	---	---

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☐ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): Twelve
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: May 11, 2011

Khachik Akhkashian

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY OR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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1 **LAW OFFICE OF KHACHIK AKHKASHIAN**
 2 Khachik Akhkashian, SB#213607
 3 2418 Honolulu Avenue, Suite G
 4 Montrose, California 91020
 5 Telephone: (818) 249-2220
 6 Facsimile: (818) 249-2297

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF RIVERSIDE

MAY 11 2011

7 Counsel for Plaintiff
 8 **SHIELA RIOS**

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 10 **FOR THE COUNTY OF RIVERSIDE**

11 **SHIELA RIOS,**

12 Plaintiff,

13 v.

14 **QUALITY LOAN SERVICE CORP,**
 15 **AURORA LOAN SERVICES; and DOES 1-**
 16 **100**

17 Defendants.

)
) Case No.: **RIC** 1108282
)
) **COMPLAINT FOR**
)
) 1. BREACH OF CONTRACT
) 2. NEGLIGENT MISREPRESENTATION
) 3. FRAUD
) 4. RESCISSION OF LOAN
) 5. RECOUPMENT
) 6. INJUNCTIVE RELIEF
) 7. VIOLATIONS OF THE TRUTH-IN-
) LENDING ACT
) 8. VIOLATIONS OF REAL ESTATE
) SETTLEMENT PROCEDURES ACT
) 10. SPECIFIC PERFORMANCE
) 11. UNJUST ENRICHMENT
) 12. UNFAIR BUSINESS PRACTICES
) 13. ATTORNEY FEES AND COSTS
)
) **JURY TRIAL REQUESTED**

18
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 24 **COMES NOW** Plaintiff for his causes of action against Defendants. Plaintiff alleges as
 25 follows:
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LAW OFFICES OF KHACHIK AKHKASHIAN
 2418 HONOLULU AVENUE, SUITE #G
 MONTERE, CALIFORNIA 91020
 TELEPHONE (818) 249-2220

I. PARTIES

1. Plaintiff, Sheila Rios, (hereinafter "Plaintiff"). Plaintiff is of majority age and a resident of California and the County of Riverside, and, at the time of filing this Complaint, owner of the subject parcel of real property. Plaintiff was the borrower of the promissory as indicated in the Deed of Trust for the subject real. Plaintiff is not involved in the real estate market or industry, and is ignorant of real estate laws, notices, rules, and procedures.

2. Defendant, Aurora Loan Services (hereinafter "ALS") is a Colorado Corporation doing business in the State of California. At all times relevant hereto ALS was the originator of a mortgage loan.

3. Defendant, Quality Loan Service Corporation (hereinafter "QLS") is a business entity of unknown form doing business in the State of California. At all times relevant hereto QLS was a Trustee for the beneficiary of Plaintiff' mortgage upon the subject real property.

4. Plaintiff is unaware of the true capacities of Defendants sued herein as Does 1-100, inclusive, and therefore sues those Defendants by fictitious names. Plaintiff are informed and believe and on that basis allege that each of the fictitiously named Defendants, Does 1 through 100, are responsible for the acts or omissions alleged in this complaint and that Plaintiff' injuries were proximately caused by acts or omissions of these Defendants. Plaintiff will leave to amend the Complaint to allege their true names and capacities when ascertained.

5. At all times herein mentioned each Defendant was the agent, servant and employee of each of the remaining Defendants and in doing the things hereinafter, alleged, were acting within the course and scope of such agency and employment and with the full knowledge, permission and consent, and/or subsequent ratification of each of the remaining Defendants.

II. JURISDICTION

6. This action concerns the ownership or real property that is located in the County of Riverside and thus, the State of California. This Court has subject matter jurisdiction over the ultimate question of ownership of the subject real property per with the Code of Civil Procedure §392. This Court has supplemental concurrent jurisdiction over the Federal Claims set forth herein, pursuant to 15 USC §1601 et seq. and 15 USC 1640(c).

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LAW OFFICES OF KHACHIK AKHKASHIAN
 2413 HONOLULU AVENUE, SUITE #G
 MONTEROSE, CALIFORNIA 91020
 TELEPHONE (818) 249-2220

III. FACTUAL BACKGROUND

7. Plaintiff Sheila Rios, is a consumer as defined by the Truth in Lending Act (hereinafter "TILA"). Plaintiff was the borrower of funds collateralized by the subject property. Defendant ALS engaged in lending practices during the transaction that induced the Plaintiff to enter into his home loan for terms that he would otherwise not enter thereon had he been fully aware of the true terms and conditions of the promissory note and the impact of the adjustable rider that was attached to the note.

8. The subject property is located at 9571 Paradise Place, Riverside, California 92508, and is legally described as follows:

"Lot 86 of Track NO. 31360, In the City of Riverside, County of Riverside, State of California, as per map recorded on November 4, 2005 in Book 392 of maps, pages 43 through 47, in the office of the county recorder of Said County."

9. The Assessor's Parcel Number for said real property is 266-623-005-2.

10. Plaintiff is the title owner of the subject property.

11. Plaintiff was the borrower of the note and collateralizes the subject real property through the security instrument identified with said real property.

12. Plaintiff is a minority and not someone involved in the real estate industry, nor was Plaintiff an attorney who had any understanding of the lending practices of mortgage loans. Plaintiff neither has a material understanding of mortgage loan documents that were presented to her at the closing for signing, making her an unsophisticated consumer.

13. On or about December 20, 2006, Plaintiff entered into a mortgage loan with ALS. A condition to the mortgage was a Prepayment Charge Rider which would penalize Plaintiff in the event that Plaintiff paid off his note early. Moreover, Plaintiff was required to execute an Adjustable Rate Rider wherein his interest rate would fluctuate as high as 11.50%, with a balloon payment of due on or about January 1, 2037. ALS failed to explain the terms and conditions to Plaintiff. Defendant ALS failed to inform Plaintiff that if he continued to make the interest only or minimum payments that he would have to generate significant funds to pay off the note at maturity.

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LAW OFFICES OF KHACHIK AKHKASHIAN
 2418 HONOLULU AVENUE, SUITE #G
 MONTERE, CALIFORNIA 91020
 TELEPHONE (818) 249-2220

1 14. Instead, ALS tendered a loan that is only beneficial to ALS. ALS, through its
 2 servicing agent, Quality Loan Corporation, had provided statements to Plaintiff allowing Plaintiff to
 3 believe that his payments were being applied to not only the interest owed on the loan but also
 4 towards principal, such that at maturity the loan would be completely paid for without the need of a
 5 balloon payment in 2037.

6 15. On or about December 20, 2006, or shortly thereafter, neither ALS nor any other
 7 broker, or agent of ALS tendered to Plaintiff a 1003 Loan Application to complete.

8 16. On or about December 20, 2006, or shortly thereafter, neither ALS nor any agent of
 9 Defendant gave to Plaintiff early disclosures of the mortgage promised.

10 17. On or about December 20, 2006, or shortly thereafter, neither ALS nor any agent of
 11 Defendant gave to Plaintiff early disclosures of the sub-prime adjustable rate mortgage, and if they
 12 did it was never properly explained to Plaintiff the significance of said sub-prime adjustable rate
 13 mortgage.

14 18. On or about December 20, 2006, or shortly thereafter, neither ALS nor any other
 15 agent of Defendant gave to Plaintiff early disclosures of the Pre-Penalty Charge Rider or Adjustable
 16 Rate Rider, and if they did, it was never properly explained to Plaintiff the significance of either
 17 Rider.

18 19. On or about December 20, 2006, or shortly thereafter, neither ALS nor any agent of
 19 Defendant gave to Plaintiff early disclosures of the Security Instrument, and if they did it was never
 20 properly explained to Plaintiff the significance of said Security Instrument.

21 20. On or about December 20, 2006, or shortly thereafter, neither ALS nor any other
 22 agent of Defendant disclosed that the monthly payment represented to Plaintiff would be a interest
 23 only payment such that if Plaintiff continues with said payment schedule that he would have to pay a
 24 significant balloon payment upon maturity in 2037. In fact, through loan agents of ALS, it was
 25 represented to Plaintiff that this loan was ideal for him.

26 21. On or about December 20, 2006, or shortly thereafter, neither ALS nor any other
 27 agent Defendant, disclosed to Plaintiff that his interest rate on the loan can go as high as 11.50%
 28 which would result in an increase in the monthly payments. Moreover, ALS nor its agents who

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LAW OFFICES OF KHACHIK AKHKASHIAN
 2418 HONOLULU AVENUE, SUITE #6
 MONTERE, CALIFORNIA 91020
 TELEPHONE (818) 249-2220

1 brokered the loan failed to disclose that unless he had an increase in income, that he may have a loan
 2 payment too onerous to shoulder and that it would result in a default and subsequent foreclosure.

3 22. To the contrary, it was indicated to him that his loan for roughly \$551,992.00 would
 4 have initial payments of about \$1,600.00 without explaining to Plaintiff the expiration of the initial
 5 period.

6 23. By February, 2009, Plaintiff began experiencing the hardship caused by economy and
 7 had noticed that the interest rate on his mortgage was skyrocketing by 2% resulting in a mortgage
 8 payment jumping to \$2,529.00 from \$1,600.00; all the while the principal still owed on the note
 9 remained the same.

10 24. During late 2010, Plaintiff began inquiring about her loan and became aware that the
 11 through a loan audit that the type of loan that he entered into was full of pitfalls that were never
 12 disclosed to her at signing, or soon thereafter.

13 25. Instead, on or about December 20, 2006, Plaintiff was rushed through the closing
 14 process of the mortgage executed, simply informed that a loan had been approved and that he had to
 15 sign several documents and initialize accordingly.

16 26. Plaintiff attempted to proceed with loan modification in February 2009, but was
 17 advised that because she was current, she was not in immediate risk of losing her home despite
 18 Plaintiff notifying ALS that she was undergoing a hardship. As such, in order to qualify for a loan
 19 modification Plaintiff became delinquent.

20 27. On September 2009, a Notice of Default was recorded in Los Angeles County. On or
 21 about September 2009, a Notice of Trustee's Sale was recorded in the same county.

22 28. When Plaintiff became in default of the note to become eligible for loan modification
 23 she contacted ALS and spoke to Michelle and informed her that she and her husband sought to
 24 modify their loan because it was becoming cumbersome but that they wanted to keep their home.
 25 Plaintiff was informed that she would be would be receiving a packet in the mail, and that she would
 26 have to make 3 monthly payments, sign a 4506, and after we make their 3rd payment, their
 27 mortgage would be permanently modified. Plaintiff received the loan modification packet and
 28

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made sure to comply the terms of the modification. Thereafter, Plaintiff was never able to reach Michelle after they received their modification packet. Plaintiff left her several voicemails, but never got a call back. At that point, she had no choice but to speak to different customer service representatives to communicate with Aurora regarding their loan modification.

29. The following is a telephone conversation log with various ALS representatives since the initial terms were made, and taken as excerpts from Plaintiff's Declaration (Exhibit "1"):

30. On, April 20, 2010, on or around 5:30 P.M. EST, I spoke with Tamika at customer service. She confirmed receiving the 1st trial period payment and confirmed they received all required documents. She confirmed no more documents were required from us. She said after we make our 3rd trial period payment, our mortgage will be permanently modified.

31. On, May 4, 2010, on or around 4:45 P.M. EST, I spoke with Lena at customer service ID # S37 she re-confirmed all documents received and 1st trial period payment received. She said in June 2010, since we live in California, Aurora is rolling out a program whereby because our property is upside down, we will be eligible for a principle reduction where the loan balance will not exceed 95% of our home's current value.

32. On, May 13, 2010, on or around 9:30 A.M. PST, I spoke with Tony at customer service, ID # PLGAL, I spoke with Tony regarding the letter I received in the mail and voicemail I received regarding an upcoming event to modify our mortgage. Tony told me I can disregard the letter. It does not apply to us since we are already in a program and have sent in all our required documents. He told me he made a note in the system regarding us not having to attend the event.

33. On, June 1, 2010, on or around 6:00 P.M. PST, I spoke with Anthony at customer service ID # F98, he confirmed our 2nd trial period payment was posted to our account on, May 28, 2010, and they did not need any additional documents from us. He told me we just had one more trial period payment left to make due July 1, 2010.

34. On, June 29, 2010, on or around 9:30 A.M. PST, I spoke with Valerie at customer service ID # A44, I told her as of 9:10 am that morning I Western Unioned our last trial period payment (payment #3) and gave her control #. She took down payment amount \$ 2,480 & control

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1 #4479210989 and told me it would take 60 days for the review of our loan modification and we
 2 should continue to make payments in the same amount until we receive a decision on our
 3 modification by mail and they will contact us by phone or by mail if they need anything additional
 4 from us. She said I can call back Thursday, July 1, 2010, to confirm receipt of our 3rd payment.
 5 (Please see attached copies of all 3 trial payments Exhibit "4").

6 35. On, July 1, 2010, on or around 7:30 P.M. PST, I spoke with Kethera at customer
 7 service, ID # S32 she confirmed our 3rd trial period payment posted to the account, June 29, 2010.
 8 She told me they are requesting copies of our business Tax Returns for 2009. I told her I would
 9 overnight them. She told me the letter requesting the business taxes went out the day before, June
 10 30, 2010, and this return is due within 10 calendar days, which was due by, July 10, 2010.
 11 I needed to overnight them by, July 8, 2010, (Thursday) for them to receive by Friday, July 9, 2010,
 12 since July 10, 2010, falls on a Saturday. Once I overnight it, I must call them with a tracking
 13 number.

14 36. On, July 7, 2010, I spoke with Laurie at customer service, ID # G36, she told me that
 15 we did not qualify for the Home Affordability Modification Program. The underwriter determined
 16 our monthly income to be \$ 3,164.51, and we wouldn't qualify unless they lowered our principal
 17 balance, which they were not willing to do at this time. However, they did roll us into the
 18 Traditional Modification program, so we should continue making our trial period payments of \$
 19 2,480.

20 37. Also, for this modification, they are asking for an updated financial statement which
 21 could be downloaded off their website www.myaauroraloan.com and an updated hardship letter.
 22 She told me the review for this modification takes 120 days and the letter went out July 15, 2010.

23 38. On, July 9, 2009, on or around 1:30 P.M. PST, I spoke with Annecia at customer
 24 service, ID # A01, she confirmed that they did receive documents; however, she won't be able to
 25 confirm what documents were received in their system until middle of next week. She said to call
 26 back Wednesday, July 13, 2010, or Thursday, July 14, 2010. She did not need tracking # since they
 27 show documents were received.
 28

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1 39. On, August 2, 2010, I spoke with Tamika at customer service and I told her I wanted
 2 to confirm they received the documents I overnighed to them for the Traditional Modification, as
 3 well as to make sure they received trial period payment # 4 which was sent by Western Union on
 4 July 27, 2010. She told me we were denied the Traditional Modification, a denial letter went out
 5 July 27, 2010 and there was a sale date set for August 4, 2010, which was less than 48 hours away. I
 6 asked her about their other foreclosure alternative options, and she said there was none for us. I
 7 asked her what about a repayment plan and she said we don't qualify for that. I asked her what about
 8 a short sale. She said it was too late for that because they require the full short sale package 7 days
 9 prior to the sale date. I said what else can we do? We want to stay in our home. She said the only
 10 option for us is to bring the loan current within 48 hours. I told her we did not have that kind of
 11 money.

12 40. For the better part of 2010, Plaintiff attempted to resolve the matter with ALS without
 13 litigation by proceeding with loan modification but her attempts were fruitless as Defendant ALS did
 14 not follow the procedure set forth by H.R. §3221 (P.L. 110-289), in order to modify the mortgage to
 15 become one that the Plaintiff originally believed he had entered into, let alone one that he could
 16 manage.

17 41. It is Plaintiff specific allegation as noted in the above-stated facts, all of the
 18 Defendants and each of them, intentionally misrepresented the facts with full knowledge that they
 19 were not true for the purposes of defrauding Plaintiff to enter loan that was not beneficial to him, nor
 20 the loan that he believed that he was entering into.

21 42. Plaintiff relied on false statements of ALS and its agents, and he has been
 22 significantly damaged by said fraud through Defendant's tactics of taking advantage of those who
 23 are unfamiliar and unsophisticated with the mortgage loan process, as well as his minority class.

24 43. The loan is a residential refinance transaction subject to the disclosure requirements
 25 of the State of California and the Federal Truth in Lending Act.

26 44. Before the closing date of said loan, no preliminary disclosures were given to Plaintiff
 27 as required by 12 CFR §226.17(b) and within the times allowed by 12 CFR § 226.19(a). As a result
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1 of the foregoing, Plaintiff did not receive Truth in Lending Disclosures or other disclosures at all for
2 the finance said property.

3 45. At all times relevant hereto, Defendants regularly extended or offered to extend
4 consumer credit for which a finance charge is or will be imposed or which, by written agreement, is
5 payable in more than four installments, and is the person to whom the transaction, which the subject
6 of this action was initially payable, making Defendants creditors within the meaning of the Truth in
7 Lending Act, 15 U.S.C. § 1602(f) and Regulation Z § 226.2(a)(17).

8 46. On or about December 20, 2006, Plaintiff executed a promissory note and security
9 agreement in favor of ALS. The transaction extended consumer credit which was subject to finance
10 charge and which was initially payable to the Defendants.

11 47. As noted above, before the execution of the loan, ALS nor any agent of Defendant
12 provided Plaintiff the preliminary disclosures required by the Truth in Lending Act or any other
13 preliminary disclosures as required by RESPA at 24 C.F.R. §§3500.6 and 3500.7, which is
14 commonly known as the Good Faith Estimate (hereinafter "GFE").

15 48. ALS intentionally failed and or refused to provide Plaintiff with various disclosures
16 that would indicated to Plaintiff that the contract entered into is void, illegal and predatory in nature,
17 such as an accurate, Truth in Lending Disclosure as required by 12 C.F.R. §226.17 and 18,
18 disclosing the proper annual percentage rate, finance charges, the amount to be financed, the
19 schedule of payments and the loan program, before the closing took place.

20 49. Furthermore, pursuant to 12 C.F.R. §226.4 and §226.18(d) and (c)(1)(iii), no
21 preliminary disclosures were given before the closing of said transaction, which would have
22 reflected the true cost of the credit transaction. Primarily, the GFE or Itemization of Amount
23 Financed (hereinafter "IOAF") would have disclosed the true cost of the loan; it would have
24 reflected that a Marketing Point in the form of Yield Spread Premium (hereinafter "YSP") was being
25 charged.

26 50. At closing, there were no Good Faith Estimates or Itemizations of amount financed
27 given.
28

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51. Defendants were under a legal obligation as a fiduciary and had the responsibility of overseeing the purported loan consummation to make sure that Plaintiff Rios consummation was right and that Plaintiff Rios received all mandated documentation and material disclosures under TILA, RESPA and any other applicable law, before and after the transaction.

52. Furthermore, Defendants owed a duty to Plaintiff in explaining the type of loan that she was consummating, and reviewing the loan to ensure that this was the type of loan that Plaintiff sought. Instead, Plaintiff received a loan that was not bargained for and Defendants were in the best position to structure the transaction so that the loan was one sought by Plaintiff so that it could be the best consumer transaction possible.

53. Instead, ALS has established a pattern and practice of defrauding Plaintiff in that, during the loan consummation process, the loan was misrepresented as one that pays principal and interest. The above violations are material and facial in nature under the Truth in Lending Act.

54. Furthermore, Plaintiff sues for recoupment, and states a claim for rescission of the loan transaction.

55. The Plaintiff did not learn of the fraudulent loan until she conducted a loan audit which disclosed various lending violations as alleged herein..

IV. BREACH OF CONTRACT

AGAINST ALS

56. Plaintiff incorporates by reference herein all prior allegations of their Complaint and facts as stated above as if fully and completely set forth herein.

57. Plaintiff was informed that she had complied with all of the documentary requirements to qualify for a loan modification, and that the only remaining matter was for her to make the 3 trial payments to vest the modification as a permanent one.

58. Defendant accepted Plaintiff's offer of \$2,480.00 by sending in the three trial payments on or before the due date in accordance with Defendant's instructions.

59. After Plaintiff made the trial payments, Defendant ALS breached the agreement by refusing to vest a permanent loan modification offer to Plaintiff.

60. As a result of this breach, Plaintiff has sustained damages of said breach.

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NEGLIGENT MISREPRESENTATIONAGAINST ALS

61. Plaintiff incorporates by reference herein all prior allegations of their Complaint and facts as stated above as if fully and completely set forth herein.

62. Defendant owed a duty to Plaintiff not to provide information that would be a misrepresentation of the true facts regarding the events that took place during the loan modification process between April 2010 up until July 2010.

63. Defendant breached its duty to Plaintiff by misrepresenting the true facts about the terms and conditions of the loan modification process between April 2010 up until July 2010.

64. Defendant's misrepresentation were material in that Plaintiff relied on said representations by acting in accordance with Defendants instructions for the loan modification process resulting in injuries to Plaintiff.

65. As a proximate result of Defendant's breach of duty, Plaintiff has suffered and will continue to suffer harm to be proven at the time of trial.

FRAUD AND DECEITINTENTIONAL MISREPRESENTATIONAGAINST ALS

66. Plaintiff incorporates by reference herein all prior allegations of their Complaint and facts as stated above as if fully and completely set forth herein.

67. Plaintiff has listed facts with particularity wherein Defendants as agents of each other and ALS willfully with malice, breached their fiduciary duty by misrepresenting the value of the mortgage product in question and by falsely representing their intentions with regard to managing their rights to the mortgage loan product.

68. Had Plaintiff been properly informed by ALS, according to their statutory duty, of the exact nature and terms and conditions of the loan regarding the property in question, Plaintiff would not have agreed to financing as per the terms consummated.

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69. In addition, ALS, who was experienced and trained in their profession, used a deceitful tactics to persuade Plaintiff to enter into the loan complained hereof. Defendant ALS and its agents informed Plaintiff that the loan is one that is beneficial to her.

70. ALS failed and omitted to Plaintiff that the loan rate can go as high as 11.50% and that at the end of the loan term, a balloon payment would be due if she continued making only the interest payments on the note. Yet, in the statements provided to Plaintiff, they indicated that the payments being made were for principal and interest.

71. ALS, capitalizing on Plaintiff minority status and lack of sophistication, should have never gone forward with the loan process.

72. When ALS and each of its agents made the above statements and or omissions, they did so knowing of the falsity of the representations and said representations were made with the intent to induce Plaintiff to finance into a predatory loan.

73. At the time Plaintiff entered into the mortgage loan, Plaintiff was ignorant of the falsity of representations concerning the quality of the loan in question, and believing them to be accurate and honest representations, relied on the representations in deciding to finance and accept the predatory loan. Had Plaintiff known the truth ALS representations or omissions, Plaintiff would not have financed and contracted for the predatory loan.

74. Plaintiff subsequently relied upon the ALS representations that he was in a good loan for principal and interest that would mature on January 1, 2037.

75. In so doing the acts specified above, the Defendants acted in conscious disregard of Plaintiff rights, with malice and fraudulent and oppressive intention. Plaintiff is entitled to compensatory damages, including but not limited to, the "fees" paid out in the transaction as well as the fraudulently obtained interest, alternatively for rescission of the entire transaction, as well as damages for emotional distress, in an amount to be proven at trial. Plaintiff Rios is also entitled to punitive damages against ALS, in an amount of \$1,000,000.00 or any other amount to be proved at trial.

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V. UNFAIR TRADE PRACTICES

AGAINST ALS

76. Plaintiff incorporates by reference herein all prior allegations of their Complaint and facts as stated above as if fully and completely set forth herein.

77. ALS has engaged in a pattern of unfair practices as stated in the facts above in violation of California Code, Title 6, Chapter 5, Article 1, Section 6-611 et seq. Primarily the Defendant did not provide the required disclosures as required. Defendant created a confidential relationship of utmost trust with Plaintiff, by contacting him by telephone, and by making disclosures. However, the Defendant, in order to enrich themselves by working in concert, willfully and wantonly breached their fiduciary duty to Plaintiff by conducting themselves in a fraudulent and deceitful manner. Defendant are attempting to take property from the Plaintiff based upon a loan that he was unaware was not in his interest nor sought for, and thus, took advantage of their unsuspecting client by concocting a false scenario where Plaintiff Rios relied upon to his detriment.

78. The egregious behavior by Defendant is in violation of state and federal law, entitles Plaintiff to void the contracts, damages, statutory penalties, and attorney fees and costs pursuant to statute; the aggregate of these damages is no less than \$1,000,000.00.

79. Plaintiff alleges that all of the Defendant's actions and inactions have impaired and damaged Plaintiff's credit, and hence his home purchasing capacity, entitling Plaintiff to additional damages. Damage to the Plaintiff's credit was deliberate and foreseeable consequence from the terms of the loan that were not disclosed to Plaintiff Rios until after closing.

VI. UNJUST ENRICHMENT

AGAINST ALL DEFENDANTS

80. Plaintiff incorporates by reference herein all prior allegations of their Complaint and facts as stated above as if fully and completely set forth herein.

81. Defendant ALS owed a duty to Plaintiff to ensure that Plaintiff understood all the fees he would pay to obtain the credit on his behalf and to not be charged any fees that were not related to the settlement of the loan entered into with ALS, and with full disclosure to Plaintiff.

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1 82. The Defendant ALS had full knowledge or had a duty to know that a Yield Spread
 2 Premium fee would increase the interest rate and increase the total amount of money paid by
 3 Plaintiff over the life of the contract, adversely affecting Plaintiff.

4 83. That Defendant ALS cannot in good conscience keep the benefits from their actions
 5 of charging a Yield Spread Premium (hereinafter "YSP") unrelated to the settlement services
 6 provided at closing and giving no benefit for that fee.

7 84. That Defendant ALS has been unjustly enriched at the expense of the Plaintiff not
 8 only for the YSP but also for the many thousands of dollars in extra interest to be paid over the life
 9 of the loan and defrauding the Plaintiff. Considering the circumstances, allowing BNC to maintain
 10 the benefit would be contrary to the rules of equity.

11 85. Accordingly, Plaintiff is entitled to restitution, damages and attorney's fees from
 12 Defendant Mega, and any other Defendant who benefited from said conduct.

13 VII. BREACH OF FIDUCIARY DUTY

14 AGAINST DEFENDANT ALS

15 86. Plaintiff incorporates by reference herein all prior allegations of their Complaint and
 16 facts as stated above as if fully and completely set forth herein.

17 87. Defendant at the time of the incident were all licensed as either a mortgage broker and
 18 or agents subject to certain statutory, common law and fiduciary duties.

19 88. Defendant in the above referenced action, had a fiduciary relationship with Plaintiff.
 20 Defendant cited, breached their fiduciary duties.

21 89. Defendant failed in their duty to investigate the circumstances of the property for the
 22 financing in question so that to insure that its principal, Plaintiff had received all disclosure to enable
 23 Plaintiff to make an informed decision concerning the value of the property and the loan he was
 24 engaging. Defendant is liable and or the cause of all fraudulent actions of its agents.

25 90. Defendant to line their own pockets to the detriment of their principal inflated the
 26 value of the loan. Falsely put Plaintiff into a sub-prime adjustable rate mortgage loan all the while
 27 representing the Plaintiff that the loan was for principal and interest with a specific monthly
 28 mortgage that would mature on or about January 1, 2037.

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1 91. Defendants to line their own pockets to the detriment of their principal failed to
2 inform Plaintiff that the monthly payments offered were insufficient to cover a payoff of the note and
3 that a balloon payment would become due on January 1, 2037.

4 92. These acts and conduct were unconscionable, predatory and a breach of fiduciary
5 duty to Plaintiff.

6 93. These acts of breach of fiduciary duty was a substantial factor in causing Plaintiff to
7 suffer damages, including but not limited to, economic damages and emotional distress damages.

8 94. Accordingly, Plaintiff is entitled to recover damages from the above listed Defendants
9 in an amount to be proven at trial, including punitive damages.

10 VIII. VIOLATION OF THE TRUTH IN LENDING ACT

11 AGAINST ALL ALS

12 95. Plaintiff incorporates by reference herein all prior allegations of their Complaint and
13 facts as stated above as if fully and completely set forth herein.

14 96. Primary loan violations against ALS and subsequent ratification by assignees and
15 successors of said mortgage, as the lender never in the loan's history gave to Plaintiff the proper loan
16 disclosures as required under the Federal Truth in Lending Act, regulated at 12 C.F.R. §§ 226.17,
17 226.18 and 226.23.

18 97. ALS engaged in a pattern of unfair practices in violation of the Truth and Lending
19 Act, 15 U.S.C. §1601 et seq. and 12 C.F.R. §§ 226.17 and 226.18, that no proper and timely TILA
20 disclosures were given to Plaintiff as required by 12 C.F.R. §226.19, which triggers the Plaintiff's
21 right to damages hereunder. No material disclosures were given as required by
22 Regulation Z at 12 C.F.R. §§ 226.17 and 226.18, entitled Plaintiff Rios to damages under 15 U.S.C.
23 §1640(a) et seq., actual damages, twice the finance charges and reasonable attorney fees and costs
24 pursuant to statute.

25 98. No preliminary disclosure of the YSP was given, no early disclosures were given, and
26 no TILA disclosure was ever provided. These are material violations of 12 C.F.R. §§ 226.4(a),
27 226.17, 226.18(d), 226.18(c)(1)(iii) and 12 C.F.R. 226.23.

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1 99. The above TILA violations play a major part in the type of loan that was given at
2 closing along with the amount of the loan payments for damages as allowed by 15 U.S.C. §1640(a).

3 100. Plaintiff further sue for recoupment because of the pending non-judicial foreclosure
4 sale under 15 U.S.C. §1640(e) and sues for equitable tolling because of the fraud mentioned in the
5 facts and fraud causes of action listed herein.

6 **IX. INJUNCTIVE RELIEF**

7 **AGAINST ALL DEFENDANTS**

8 101. Plaintiff incorporates by reference herein all prior allegations of their Complaint and
9 facts as stated above as if fully and completely set forth herein.

10 102. QLS nor anyone acting on behalf of ALS has a right to foreclose on Plaintiff's
11 property in that all of the transactions under which ALS purported to gain an interest in Plaintiff
12 property and loan entered into were based upon actual fraud, constructive fraud, misrepresentation in
13 the performance of the contract, as well as the TILA violations giving rise to Plaintiff right of
14 rescission. Therefore, all such transactions are null, void, unenforceable and of no legal effect.

15 103. Plaintiff is threatened with immediate, irreparable harm if non-judicial foreclosure
16 and sale are affirmed. Plaintiff is married; she and her husband will be uprooted and damaged if this
17 property is foreclosed upon.

18 104. Plaintiff is entitled to a temporary restraining order, preliminary injunction, and
19 permanent injunction, against Defendants its agents, assigns, successors in interest, prohibiting them
20 from engaging in any conduct in furtherance of non-judicial foreclosure and sale: proceedings against
21 the subject property.

22 105. Furthermore, Plaintiff is entitled to a temporary restraining order per California Civil
23 Procedure §526, preliminary injunction per California Civil Procedure § 527 against the Defendants
24 named herein and their successors and assigns pending further order from this Court.

25 **X. PRAYER FOR RELIEF**

26 106. Wherefore, having set forth various causes of action against Defendants, Plaintiff
27 prays for relief as follows:
28

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1 A. For preliminary and permanent injunctive relief against all Defendants and
 2 their successors in interest and assigns, agents, employees, and any all persons acting on behalf of
 3 said Defendants or in concert with said Defendants, such that they be enjoined from foreclosing and
 4 proceeding with a Trustee Sale of the subject property pending in this action until the matter has
 5 been resolved or otherwise ordered by said Court;

6 B. For specific performance of the loan modification agreement entered between
 7 the parties on April 24, 2010.

8 C. For general and special damages in an amount to be proven at trial;

9 D. That the transaction be deemed void as a result of Defendants fraud and
 10 breach of fiduciary duties;

11 E. For attorney fees together with costs of the action;

12 F. That the actions of all Defendants be determined to be unfair and deceptive
 13 business practices in violation of California law and that the Court award all such relief to Plaintiff
 14 as they are entitled to including, treble damages and an award of costs and attorney's fees;

15 G. That the actions of Defendants be determined in violation of the Truth in
 16 Lending Act, for the non-compliance thereof and the Regulations promulgated there under and that
 17 the Court award return of all finance charges, twice the finance charge and award the damages
 18 provided by 15 U.S.C. §1640(a) et seq.

19 H. That the Plaintiff be awarded \$5,000.00 statutory penalty for the violations of
 20 the Truth in Lending Act;

21 I. That the Plaintiff be awarded all damages related to the unjust enrichment
 22 claims;

23 J. That the Plaintiff be awarded consequential damages, including attorney's fees
 24 incurred to bring this action, in an amount to be fully proved at time of trial;

25 K. That Plaintiff be awarded fees and costs pursuant to the written agreements
 26 with bind Defendants; and

27 L. That the Court declare that the contract entered by the Plaintiff Rios be
 28 reformed in compliance with HR 3221;

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1 payment we had made, and she said they returned the money back to us. And, that was the last time
2 we talked to anyone from Aurora.
3

4 I, Sheila Rios, declare under penalty of perjury, pursuant to the laws of the State of
5 California, that the foregoing is true and correct.
6

7
8 Dated : May 10, 2011, and executed at Montrose, California.
9

10
11
12 By: 

13 SHEILA RIOS
14 PLAINTIFF
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DECLARATION OF SHEILA RIOS